Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OMNI INNOVATIONS, LLC, a Washington Limited Liability company, Plaintiff, v. INSURANCE ONLY, INC.; MICHAEL WEDEKING, and his marital community; PATRICK WEDEKING, and his marital community, Defendants.	NO. CV06-1210TSZ **DECLARATION OF MICHAEL WEDEKING IN SUPPORT OF DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT FOR INJUNCTIVE RELIEF**

MICHAEL WEDEKING declares and states as follows:

I am one of the defendants in the above matter. The following is based on my personal knowledge, and I am competent to testify thereto.

1. I am one of the owners of Insurance Only, Inc. Part of my role at Insurance Only is to handle the technical and computer-based aspects of the business.

2. Insurance Only sells life insurance products. Specifically, Insurance Only acts as a broker between individuals wishing to purchase life

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insurance and companies wishing to sell life insurance. We facilitate the process of obtaining quotes and insurance coverage. Insurance Only has never sent, or hired others to send, e-mail advertisements for products other than life insurance.

3. In the past, one of the methods by which Insurance Only marketed its products was through e-mail advertisements. Insurance Only contracted with reputable advertising companies who represented that the e-mails would be sent only to "opt in" individuals, or in other words, individuals who had expressed a willingness and/or desire to receive such e-mails. Additionally, the companies with which we contracted all represented that their methods are CAN-SPAM compliant. I reviewed Insurance Only's database and confirmed that Insurance Only has not sent e-mails to Omni or to the domains referenced by Omni in its motion. Moreover, I am unaware of any e-mails marketing Insurance Only's products being sent to Omni or any of the domains referenced by Omni in its motion.

4. For at least the last year, Insurance Only has not been involved in e-mail advertising. We have not contracted with other companies to advertise via e-mail. Accordingly, it is nearly impossible for Omni Innovations or James Gordon, Jr., to have received e-mails from Insurance Only or marketing Insurance Only's products within the last year, nor is there any reasonable probability that they will receive any such e-mails in the future.

5. We were involved in a prior lawsuit with James Gordon, Jr., individually, arising out of many of the same facts that are asserted in this case. Omni was not a party. Although Insurance Only vehemently denied liability in that case, as Insurance Only does in this case, we settled Gordon's claim on a below defense-costs basis. Any suggestion or implication in

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Omni's materials that Insurance Only did anything other than deny liability and settle to avoid litigation costs, is baseless.

6. Insurance Only never received a letter or an e-mail from Omni, or Gordon on behalf of Omni, requesting that Insurance Only not send commercial electronic messages to them. Similarly, Insurance Only never received a document similar to the Notice of Offer to Receive Unsolicited Commercial E-mail (Spam) which is attached as an exhibit to Gordon's Declaration.

7. I reviewed the exhibits to Gordon's Declaration which Gordon claims prove that Insurance Only is continuing to send e-mail messages. The first such message is from gapgole.com, an entity and/or domain with which we are unfamiliar. Additionally, the e-mail advertises health insurance, which is not a product Insurance Only markets or sells. The second sample e-mail is from QuoteInAMinute.com, not from Insurance Only, and again, is advertising health insurance, not life insurance. Insurance Only is not affiliated with QuoteInAMinute.com.

8. I also reviewed the e-mails attached as exhibits to Gordon's Declaration that he asserts show he notified Insurance Only not to send any commercial electronic mail to him. None of those e-mails were sent to Insurance Only. Also, none of those e-mails were initiated by Insurance Only to Gordon, nor do I recognize any of the names of the senders as advertisers with which Insurance Only ever did business. Additionally, all of the e-mails predate Omni's alleged IAP status beginning May of 2005.

9. I have also reviewed a large sampling of the e-mails produced by Omni on a CD allegedly containing e-mails sent by Insurance Only or procured to be sent by Insurance Only. I did not locate even one electronic

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mail message that appeared to be advertising Insurance Only's products. Indeed, when I opened a number of the links that were still usable, I was transferred to products like electronics, travel services, erectile dysfunction drugs, and the like. It is clear that Omni made no effort whatsoever to provide only those e-mails on which it bases its claim against Insurance Only.

10. I have worked in an Internet-based business for approximately ten years. I have learned that it is not uncommon for other marketers to copy imaging, text and formatting to use in their own ads. Further, advertisers who are inclined to violate the law have the ability to put false names in the sender lines or the opt-out information, using the names of reputable companies in an effort to induce consumers to open their ads, respond to the ads, and follow the links. The consumer then finds himself viewing an advertisement from a different company. Thus, the only method to determine whether an e-mail actually was initiated by a particular sender is to examine the e-mail in its original form, analyze server information along the routing path, and follow the links contained within the commercial electronic mail message.

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNED at Denver, Colorado, this 6 day of July, 2007.

By ______________________
MICHAEL WEDEKING

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CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Robert J. Siegel, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: N/A.

s/ Cheryl R.G. Adamson / WSBA #19799
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